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Office of General Counsel
Washington, DC 20405

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

August 30, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, DC 20554

Subject: Equal Access and Interconnection Obligations
Pertaining to Commercial Mobile Radio Services,
CC Docket No. 94-54, RM 8012

Dear Mr. Caton:

Enclosed please find the original and nine copies of the General Services Administration's Comments for filing in the above-referenced proceeding.

Sincerely,

Michael J. Ettner

Michael J. Ettner
Senior Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service



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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

AUG 30 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of
Equal Access and Interconnection
Obligations Pertaining to
Commercial Mobile Radio Services

CC Docket No. 94-54
RM-8012

COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

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Washington, D.C. 20405

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COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

The General Services Administration ("GSA"), on behalf of the Federal Executive Agencies, hereby submits its Comments in response to the Commission's Notice of Proposed Rulemaking, FCC 94-145, released July 1, 1994. This Notice requested comments and replies on three issues related to Commercial Mobile Radio Services ("CMRS").

I. INTRODUCTION

The three issues raised by the Notice were reserved for later consideration in the CMRS Second Report¹ and raised earlier in a petition for rulemaking by MCI Telecommunications Corporation

¹Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, Gen. Docket No. 93-252, 9 FCC Rcd 1411, 1448-1463, 1508 (1994) ("CMRS Second Report").

("MCI").² First, this proceeding considers whether to impose equal access obligations upon CMRS providers. Second, it considers rules to govern requirements for interconnection service provided by local exchange carriers ("LECs") to CMRS providers. Third, it considers whether to propose rules requiring CMRS providers to interconnect with each other.

GSA commends the Commission for initiating this proceeding. As CMRS grow and diversify, they are becoming a critical component of local exchange access. CMRS should no longer be seen as merely discretionary services. They may, in fact, eventually become the predominant form of local exchange voice-grade access. As CMRS increases in importance, it is essential that the Commission establish appropriate rules for its provision.

In these Comments, GSA addresses each of the issues identified by the Commission.

II. The Commission Should Impose Equal Access Obligations Upon CMRS Providers.

The Modification of Final Judgment ("MFJ")³ requires the Bell Operating Companies ("BOCs") to offer access to their local exchange networks to all interexchange carriers ("IXCs") that is "equal in type, quality, and price" to that offered to AT&T and its

²MCI Telecommunications Corporation, Policies and Rules Pertaining to Equal Access Obligations of Cellular Licensees, Petition for Rule Making, filed June 2, 1992 ("MCI Petition").

³United States v. AT&T, 552 F. Supp. 131, (D.D.C. 1982) aff'd sub nom Maryland v. U.S., 460 U.S. 1001 (1983).

affiliates.⁴ In 1985, the Commission adopted equal access requirements for all other landline LECs in order to encourage competition by affording all IXCs equal access to their customers "on a reasonably uniform basis nationwide".⁵

The MFJ court has ruled that equal access requirements also apply to the cellular affiliates of the BOCs.⁶ However, cellular licensees and CMRS providers other than the BOCs are not currently obliged to provide equal access. The Notice proposes that equal access obligations be imposed on all cellular licensees and seeks comment on whether such obligations should be imposed on other CMRS providers.⁷

GSA supports the imposition of equal access obligations on all CMRS providers holding radio licenses and passing two-way telecommunications traffic to the IXCs. GSA believes the holding of a radio license should carry with it the responsibility to provide non-discriminatory access to all IXCs. The provision of equal access to IXCs by CMRS providers would promote competition in both industries to the ultimate benefit of all end users.

⁴MFJ, 552 F. Supp. at 227.

⁵MTS and WATS Market Structure, CC Docket No. 78-72, Phase III, 94 FCC 2d 292, 296-97 (1983) (MTS/WATS Notice); MTS and WATS Market Structure, CC Docket No. 78-72, Phase III, 100 FCC 2d 860 (1985).

⁶See *United States v. Western Electric Co.*, No. 82-0192, para. 8 (D.D.C. Feb. 26, 1986); *United States v. Western Electric Co.*, No. 82-0192, para. 5, (D.D.C. Oct. 31, 1986); *United States v. Western Electric Co.*, Civil Action No. 82-0192 (HHG), Case Nos. 971 and 2416, 1990-2 Trade Cas. ¶69,177 (Sept. 12, 1990).

⁷Notice, p. 19.

Regulatory parity demands that the Commission apply the same equal access obligation on all similarly situated CMRS providers.

The Notice proposes that prescription and balloting rules for cellular providers be established,⁸ but that licensees be permitted to phase in their implementation.⁹ GSA agrees that presubscription and balloting are essential to the provision of equal access. GSA recommends that the Commission require each carrier to propose a schedule for implementation of equal access presubscription and balloting.

III. LECs Should Be Required to Provide
Interconnection Arrangements to
CMRS Providers Under Tariff.

Currently, interstate interconnection arrangements between the LECs and CMRS providers are established on the basis of individually negotiated contracts. The Notice seeks comment on whether the LECs should be required to offer interconnection to CMRS providers on the basis of tariffs.¹⁰

The Notice describes the series of actions the Commission has had to take to deal with the "continuing problems" relating to interconnection.¹¹ In the Cellular Order, the Commission required

⁸Id., p. 39.

⁹Id., p. 26.

¹⁰Notice, pp. 43-50.

¹¹Notice, pp. 43-46.

the BOCs to furnish interconnection to cellular systems upon terms "no less favorable than those offered to the cellular systems of affiliated entities or independent telephone companies".¹² In the Policy Statement, the Commission required the LECs to provide (1) the type of interconnection the mobile carrier requested; (2) interconnection on terms not less favorable than furnished to its affiliated wireline cellular carrier; and (3) reasonable interconnection arrangements with the nonwireline carrier that may not be the same as those used by the wireline cellular carrier.¹³ In the Interconnection Order, the Commission required the LECs to negotiate the terms and conditions of interconnection with cellular carriers in good faith.¹⁴ Finally, in the CMRS Second Report, the Commission required (1) mutual compensation between LECs and CMRS providers; (2) reasonable charges by the LECs; and (3) provision of any technically feasible and economically reasonable interconnection form requested by CMRS providers.¹⁵

GSA has consistently supported the Commission's efforts to establish equitable LEC tariffs for interconnection by IXCs,

¹²An Inquiry into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems, CC Docket No. 79-318, Report and Order, 86 FCC 2d 469 (1981) (Cellular Order), p. 496.

¹³See the Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 59 Rad. Reg. 2d (P & F) 1275 (1986) (Policy Statement), pp. 1283-84.

¹⁴Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, Declaratory Ruling, 2 FCC Rcd 2910, 2913 (1987) (Interconnection Order), pp. 2912-2916.

¹⁵CMRS Second Report, p. 1498.

enhanced service providers ("ESPs") and competitive access providers ("CAPs").¹⁶ GSA believes the time has come to establish LEC tariffs for interconnection by CMRS providers.

As the Notice recognizes, "tariffing is an established mechanism for ensuring that rates, terms and conditions are reasonable and that carriers do not engage in unreasonable discrimination".¹⁷ The Commission has struggled for 14 years to ensure such an outcome without tariffs. During this period, more than half of the CMRS providers seeking interconnection have themselves been affiliates of LECs, and still the process has been a struggle. In the coming years, hundreds of new personal communications service ("PCS") and other CMRS providers will be seeking interconnection. There will be mass confusion, and serious inequities arising, if the Commission does not act now to establish LEC tariffs for CMRS providers.

IV. CMRS Providers Should Be Required to
Interconnect With Each Other
Pursuant to Tariff.

The Notice requests comments on whether CMRS providers should

¹⁶See CC Docket No. 91-141, Expanded Interconnection with Local Telephone Company Facilities, Notice of Proposed Rulemaking and Notice of Inquiry 6 FCC Red 3259 (1991), Comments of GSA, August 6, 1991; Reply Comments of GSA, September 20, 1991. Supplemental Notice of Proposed Rulemaking FCC 91-309, released October 4, 1991, Reply Comments of GSA, December 10, 1991. Second Notice of Proposed Rulemaking, FCC 92-441, released October 16, 1992, Phase I, Comments of GSA, January 14, 1993; Reply Comments of GSA, February 19, 1993. Phase II, Comments of GSA, April 30, 1993.

¹⁷Notice, p. 49.

be required to provide interstate interconnection to other mobile service providers.¹⁸

GSA believes that the establishment of such interconnection rules will foster interconnectivity and the growth of diverse and competitive mobile services. GSA believes the public interest will best be served, and the government's own competitive procurement responsibilities enhanced, if the Commission encourages the development of a robust "network of networks", and not a situation where most traffic from one CMRS provider must pass through a LEC switch to reach another CMRS provider, if such routing would be inefficient or unduly costly.

Furthermore, in line with the above discussion, GSA believes that all CMRS providers should be required to file interstate interconnection tariffs. In the long run, with the possibility of hundreds of CMRS providers requiring interconnection, a tariffing procedure will prove less burdensome to all concerned than alternative arrangements.

The Notice also requests comments on whether the Commission should impose unrestricted resale obligations for all CMRS.¹⁹ GSA supports the prohibition of restrictions on resale service in general, and on CMRS in particular. The establishment of resale obligations will allow new entrants to offer services to the public more quickly because they can resell another service while building their own facilities.

¹⁸Notice, p. 51.

¹⁹Notice, p. 59.

V. CONCLUSION

As the agency vested with the responsibility for acquiring telecommunications services for use of the Federal Executive Agencies, GSA urges the Commission to impose equal access obligations upon CMRS providers; require LECs to provide interconnection arrangements to CMRS providers under tariff; require CMRS providers to interconnect with each other pursuant to tariffs; and prohibit restrictions on the resale of CMRS.

Respectfully submitted,

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August 30, 1994

CERTIFICATE OF SERVICE

I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 30th day of August, 1994, by hand delivery or postage paid to the following parties:

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